

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Reserve at Cavalier,

Plaintiff,

v.

Terico Harvey and All Others,

Defendants.

C/A No. 6:19-cv-2608-TMC

ORDER

Defendant Terico Harvey (“Harvey”), proceeding pro se and in forma pauperis, removed the present action from the Greenville County Magistrate’s Court (ECF No 1), alleging a federal question arises from an eviction action against him for non-payment of rent (ECF No. 1-1). In his notice of removal, Harvey suggests that the underlying eviction proceedings occurred “in violation of the Uniform Commercial Code.” (ECF No. 1 at 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., because Defendant is proceeding pro se, this action was referred to a federal magistrate judge for pretrial handling.

Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that the court remand this action to the Greenville County Magistrate Court for lack of subject matter jurisdiction. (ECF No. 8 at 4). Specifically, the magistrate judge determined that Harvey has pointed to nothing to suggest that the state eviction proceedings arose out of the Constitution, laws, or treaties of the United States, or that this court can exercise federal question jurisdiction based on his reference to the Uniform Commercial Code. *Id.* at 3. The magistrate judge further found that Harvey failed to demonstrate the parties are diverse, or that the amount in controversy exceeds the jurisdictional amount for removal based on diversity of citizenship. *Id.*

Plaintiff was advised of his right to file objections to the Report. *Id.* at 8. However, Plaintiff filed no objections, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a careful and thorough review of the record under the appropriate standards, as set forth above, the court **ADOPTS** the magistrate judge’s Report (ECF No. 8), which is incorporated herein by reference, and **REMANDS** this action to the Greenville County Magistrate Court for lack of subject matter jurisdiction.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

October 8, 2019
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.